

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Reissue Application of

Inventors: James A. SATCHELL, Jr. et al

Original U.S. Patent No. 5,822,216, issued October 13, 1998

Reissue Application Serial No.: 09/686,626

Group Art Unit: 2121

Reissue Application Filing Date: October 12, 2000

Examiner: S. Garland

For: VENDING MACHINE AND COMPUTER ASSEMBLY

**SUPPLEMENTAL DECLARATION OF DORA STROUD**

I, Dora Stroud, am over the age of twenty one years, and if called to testify would be fully competent to testify on the following matters based upon personal knowledge:

1. My current address is 4220 S. Capitol Street, S.E., Apartment 103, Washington, D.C. 20032.
2. I was an employee of the United States Patent and Trademark Office from 1970 until my retirement in 2000, my last position being Supervisor, Customer Service, Intake of Patent Applications.
3. I am familiar with the patent application attached as Serial Number 08/429,583 (hereinafter the “‘583 application”), recognizing my signature contained therein, and recall numerous conversations with James A. Satchell, Jr. the applicant of the aforementioned ‘583 application prior to August 17, 1995.
4. I recall that Mr. Satchell was applying for his patent application pro se and it was part of my duties at the time to assist pro se applicants in filing their patent applications.

5. Mr. Satchell's deposit of his patent application with the United States Patent and Trademark Office on April 27, 1995, was not given a filing date because the application did not include at least one claim as noted in the Notice of Incomplete Application mailed to Mr. Satchell on May 24, 1995.
6. It was shortly after that mailing on May 24, 1995, that I had discussions with Mr. Satchell in my capacity of assisting pro se applicants.
7. I specifically recall discussions with Mr. Satchell concerning his invention for providing patrons or customers of vending machines with internet/worldwide web access, by including in said vending machine a public access to the internet/worldwide web with a vending machine door which included a video screen and selector mechanism to access websites and other internet/worldwide web information.
8. I specifically recall the details of my conversations because I made notes of them in my efforts to assist the pro se applicant, Mr. Satchell.
9. The notes I made I left with the United States Patent and Trademark Office upon my retirement.
10. I have reviewed the amended specification date stamped December 26, 1995, in the aforementioned '583 application and state that prior to the filing of that substitute specification, Mr. Satchell conveyed that information to me concerning his use of vending machines to access the internet/worldwide web.
11. I understand from the Office Action dated August 27, 2003 that the Examiner wants more specificity as to the disclosure of the invention to me.

12. I specifically recall that the following information was conveyed to me by Mr. Satchell at least as early as August 17, 1995:

- a. The claim of his application, reciting a vending machine including a device to access the internet or world wide web, incorporated, for example, in the door of the machine. The machine could also provide entertainment or advertisements, such as live news, pre-recorded music or videos, and live auditions for television commercials. The purchase of, for example, a soda could be used to activate the device, which could also include a video screen, stereo speakers, a satellite receiver antenna, cameras, a video recorder-playback machine, cassette dispenser, motion detectors, multi-selection panels, and adaptors in the door to permit internet or world wide web access.
- b. The concept of delivering information, such as music over the internet/world wide web, as described in MusicWorld, a publication of BMI, dated Summer 1995. Mr. Satchell informed me that he was in receipt of this publication, and described to me at least as early as August 17, 1995, the subject matter of the article titled "Music on the Internet: Getting an Earful On Line", discussing the delivery of music works over the internet. A copy of which is attached hereto and highlighted by me as a specific recollection of my discussions with Mr. Satchell. These discussions facilitated my understanding of his invention.

13. I have no financial interest in the outcome of this matter.

Further, declarant sayeth not.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the reissue application or of any reissue patent to issue thereon.

01-22-04  
Date

Dora L. Stroud  
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Residence: Washington, D.C.

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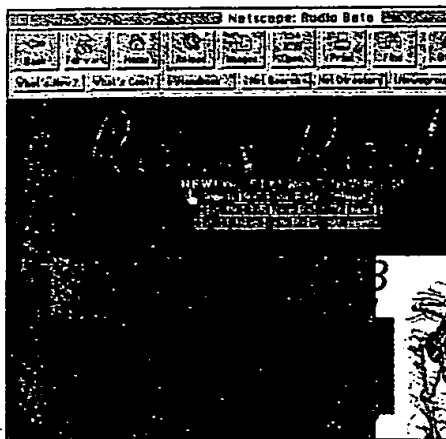
# BMI

SUMMER 1995

# MUSICWORLD®



SHERYL CROW



Music On The Internet page 10



Sheryl Crow page 14



Alan Silvestri page 32



South By Southwest page 44

# CONTENTS

## FEATURES

|   |    |
|---|----|
| On The Scene  | 4  |
| Music On The Internet                                   | 10 |
| Songwriters Hall Of Fame                                | 20 |
| BMI Continues Fight Against HR789 Licensing Legislation | 21 |
| Elvis Tome Takes Top Gleason Honor                      | 29 |
| Music Moves Center Stage At Peabody Awards              | 41 |
| Rhythm & Blues Foundation Honors Pioneers               | 42 |
| Celebrities Turn Out For Country In The Rockies         | 43 |
| BMI Flies High At South By Southwest                    | 44 |
| In Concert  | 46 |
| Dove Awards Highlights                                  | 48 |
| Crossroads Keys On Musical Diversity                    | 49 |
| Music People  | 50 |

## PROFILES

|  |    |
|--|----|
| Sheryl Crow: Charting A Flight Path To The Top | 14 |
| Alan Silvestri: A Matter Of Trust              | 32 |

## BMI AWARDS

|  |    |
|--|----|
| Babyface, Warner-Tamerlane Win Big At BMI Pop Awards | 22 |
| Alan Silvestri Takes Top Honor At BMI Film/TV Awards | 36 |



BMI Pop Awards page 22

# Music On The Internet:

by Kevin Zimmerman

In his classic film *2001: A Space Odyssey*, director Stanley Kubrick introduced a computer that could talk, make suggestions and even sing a song. Six years shy of that date, computers are beginning to do all of those things and more, thanks in large part to the Internet, whose many services are increasingly becoming useful tools for the working composer, songwriter and musician.

Basically, the Internet is the world's largest computer network — actually an international network of networks. The fundamental idea is that the 'Net is a means of exchanging information with tens of millions of computer-users around the world; a user can search the 'Net for information on practically any subject.

The World Wide Web is a relatively new and ambitious Internet service that provides a means of organizing the 'Net's information resources in such a way that the user can view images and hear sounds right on his home computer. Web resources are linked together; by clicking on key words or pictures, the user can go to related Web resources.

Though there already are literally tens of millions of people using the Internet on a regular basis, its potential still seems largely untapped. And the music community is still in the early stages of getting involved with the 'Net: record companies are still determining how much information they want to provide, and, perhaps most importantly, the entire creative community is assessing what impact, if any, the new digital technology may have on the legal parameters of music

usage. BMI has been a trailblazer in this area, having already signed an agreement with On Ramp Inc., an Internet marketing and content provider, the first such agreement covering music transmitted over the 'Net.

For now, there are primarily three multi-media files an Internet user can download: MIDI, sound and video. MIDI is a protocol used in recording studios and pro audio, connecting a computer directly to a synthesizer, a kind of control language about music that many composers and songwriters have been using for 10 years or so. Its popularity has soared as an international standard, called "General MIDI," has given composers the assurance that the instruments they use in scoring a composition will be the same ones listeners hear when they play it back.

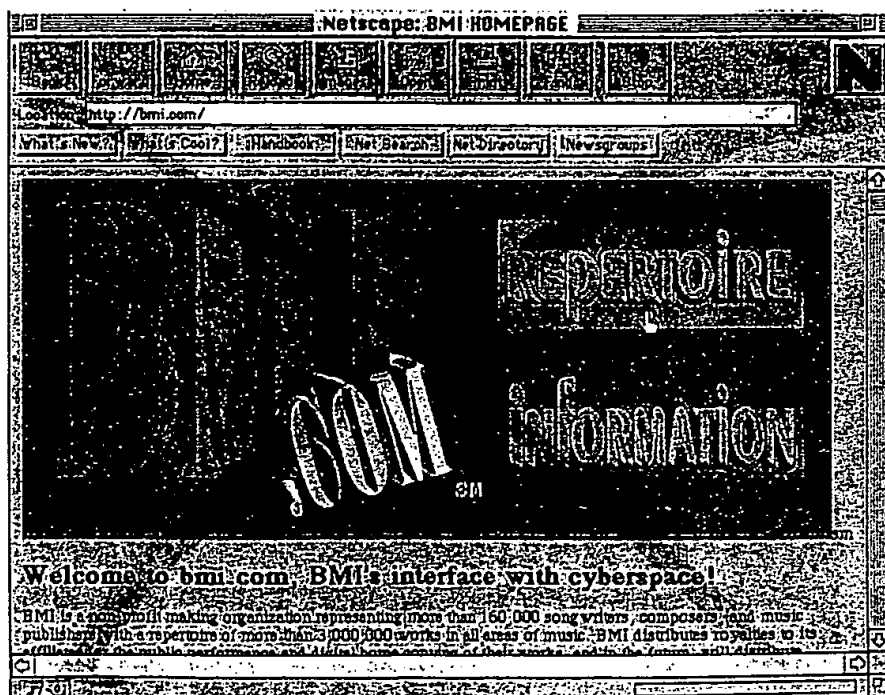
Audio files — actual music that can be downloaded and played on the computer — are encoded as "WAV," "AIFF" and other digital formats. These

are practically essential for a music company's successful website.

"The multi-media component is extremely important for anyone coming through a site," says Robert Bourne, senior product manager for BMG Classics US. "It's their way of sampling music on the site."

Earlier this year, BMG Classics launched a music resource called Classics World with service provider On Ramp on the Internet, listing about 1,700 titles, cross-referenced by artist and composer. Also linked to the classics site is BMG's ECM Records, listing 442 of its jazz, classics and world music titles.

BMI launched the second major phase of its Internet service on July 1 with a searchable database of BMI's almost three million cleared musical works. The service also offers digital editions of *MusicWorld* and all of BMI's brochures and songwriter information. The site now attracts more than 25,000 inquiries per week from over 40 countries from as far away as the Russian Federation, Turkey, South Korea, Costa Rica and Thailand.



# Getting An Earful On Line

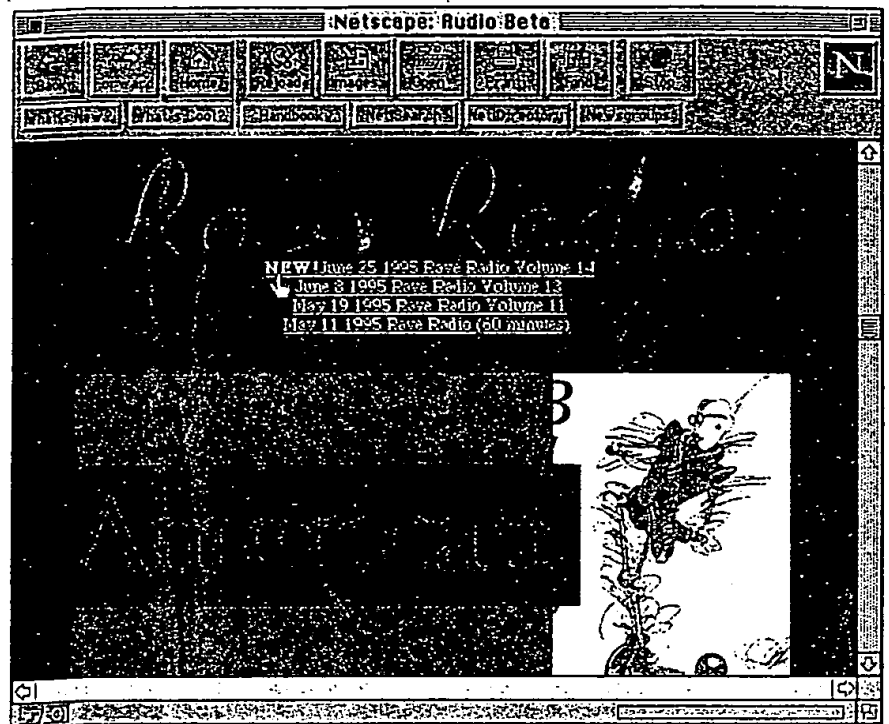
Classics World currently has eight features (artist/composer profiles, photos, sound clips, video clips, new releases info, etc.) and a CD catalog. In four months they've recorded about 1 million accesses. On average a user uses 10-12 pages per session, resulting in about 12 million commands.

"What's impressive to me, more than the raw numbers, is how widespread the usage is," Bourne says. "There's 59 countries that we've counted, with about half of the accesses from the U.S. and the top six rounded out in no particular order by the U.K., Japan, Canada, the Netherlands and Australia. But near the bottom you see names like Croatia, Zaire and Fiji."

"The promise of the Internet, that it 'makes everything local no matter where you are,' may sound like hyperbole," he continues, "but when you actually see on paper that someone from Mongolia has come through your site in New York, it's pretty exciting."

Sony, MCA and a host of independent labels also have web sites. "It is a digital publication of sorts, and you have to be changing it all the time," says Barry Johnson, head of new technologies for the Epic Records Group. "If the *New York Times* ran the same stories every day, nobody would read it. If we just have the same things at our sites, people will visit them once and that'll be it."

Epic is constantly updating its artist websites, often incorporating electronic bulletin boards. "This is a place where people say what they feel and feel what they say," he continues. "I think we spend a lot of time in this industry second-guessing what people think and feel. Here you can get immediate feedback from people on which single they like, what they



think of the album cover, what they think of the artist's ideas. It's really a cool two-way dynamic."

Epic's sister label, Columbia, features a daily column at the Columbia Online site, updating the goings-on at the label and in the lives of its artists. Mark Ghuneim, VP of online and emerging technologies at Columbia, reports some 25,000 accesses a day, mostly from young rock & roll fans.

"Rock & roll has moved from music to computers," Ghuneim declares. "Kids who used to run home and turn on their TV are now running home and turning on their computers."

Warner Bros., meanwhile, is part of the Internet Underground Music Archives, a service that — for a fee — puts songwriters and artists on the 'Net with sound files — either the full song, which they digitize and make available for people to download, or 20-30 second clips — photos and bios. It makes

**Pictured here is part of On Ramp's Metaverse on the Internet's World Wide Web, where visitors can access music programs in real time.**

for an intriguing "point of entry" for unsigned artists.

Taking things even further is recording artist Todd Rundgren. In the first cyberspace release of an entire album, all 10 tracks of his new LP, *The Individualist*, full length and unedited, in Rundgren's recently opened Music In(tr)Action Forum on on-line service CompuServe. Users can download individual songs (download times range from 30 minutes to an hour) or the entire album (about seven hours, depending on modem speed).

*The Individualist* is the first album to be released solely on the CD+ format, permitting access to the audio content by a standard CD player. The "enhanced" content, accessible via a computer CD-ROM drive, allows listeners to combine and vary



such parameters as style, mix and length of songs to produce their own particular versions.

Meanwhile, record company executives are increasingly taking notice of the 'Net's possibilities: Rachel Felder, director, a&r, the Columbia Records Group, declares, "Without the Internet, I almost feel like I can't do my job."

Felder estimates that she spends between three and four hours per day (at home and at work) surfing the 'Net, trying to find out what bands are turning the heads of young rock fans. "It's not enough to trust your instincts about whether the music you're hearing is good or not," she says. "You need to get an idea from the kids of what they think is cool."

"You find kids talking amongst themselves about music that they're almost compulsively religious about," she continues. "My job is to find music that I'm compulsively religious about, but more importantly, that kids around the world will feel that way about too."

Felder regularly browses the Web and constantly checks the bulletin boards and newsgroups to find out what's new. "It's an incredible resource," she says. "It's like a living fanzine."

There is a downside, however: Copyright owners should be aware of ongoing questions regarding copyright protection on the Internet.

In December of 1993, the National Music Publishers' Assn.'s licensing agency, the Harry Fox Agency, announced a class-action suit against interactive computer network CompuServe, charging copyright infringement of the song "Unchained Melody" and over 500 others. The 150 publishers in the suit are seeking redress for what it terms the unauthorized reproduction and distribution of its copyrighted material through CompuServe's electronic bulletin boards, where songs are available for CompuServe subscribers to download and copy for themselves. Similar interactive services could be open to legal action akin to the CompuServe suit.

In the world of performing rights, BMI and other organizations maintain that a multiplicity of rights may be involved with digital transmissions that result in downloading. BMI's position is that these transmissions are public performances; it acknowledges that other rights may come into play with such activity. Establishing licensing agreements with the online services — with potentially hundreds of thousands of dollars in royalties at stake — remains a priority.

## **BMI's agreement with On Ramp grants On Ramp a blanket license that covers unlimited access to the more than three million compositions in BMI's repertoire.**

The above-mentioned BMI agreement with On Ramp grants On Ramp a blanket license that covers unlimited access to the more than three million compositions in BMI's repertoire, encompassing the work of more than 160,000 songwriters, composers and music publishers. The license covers a variety of planned music uses in On Ramp's future business strategies, including browsing, listening and transmission to consumers in the home. This agreement only covers public performing rights, however; mechanical or synchronization rights require a separate license.

Recently, all of the major parties in the music industry reached agreement on the provisions for the establishment of a new performance right for digitally transmitted sound recordings, benefiting copyright owners of sound recordings and artists,

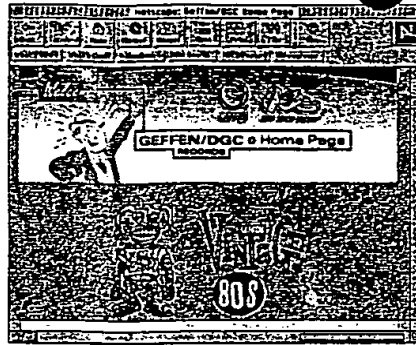
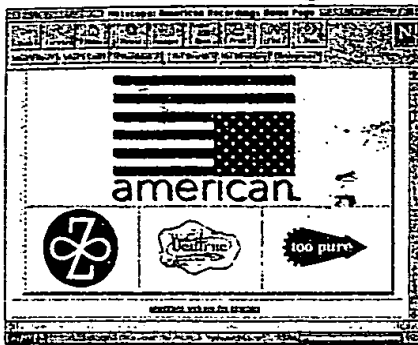
and known as the Digital Performance Right in Sound Recordings bill. BMI's major concern, and its consistent position during the music industry negotiations, was that the establishment of a new right for sound recordings not put benefiting copyright owners of sound recordings or anyone else in the position of being a "gate keeper," deciding when and on which digital music services a songwriter's compositions could be heard. BMI also wanted to assure that royalties for the public performance of a musical work would not be adversely affected by the creation of a performance right for digitally transmitted sound recordings.

The National Music Publishers Association (NMPA), negotiating for music publishers, wanted to assure that mechanical royalties were paid for all digital transmissions. The agreement that they reached gives publishers a right to receive mechanicals from record companies in those cases in which a digital music service can "track" the number of downloads to consumers' PCs or other recording devices. No mechanicals are payable unless the digital delivery is "trackable."

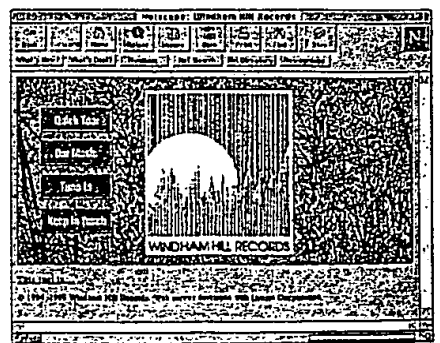
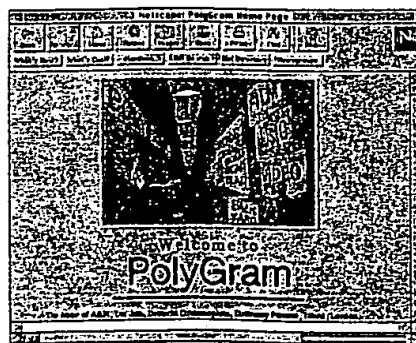
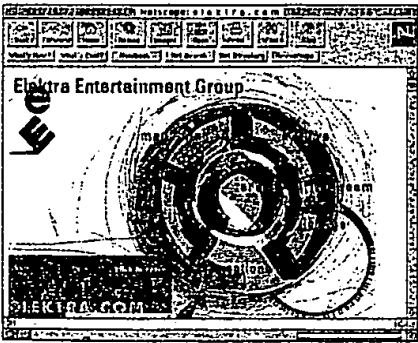
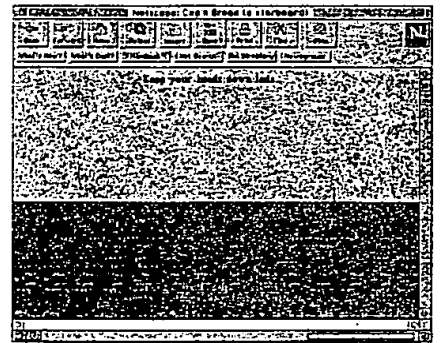
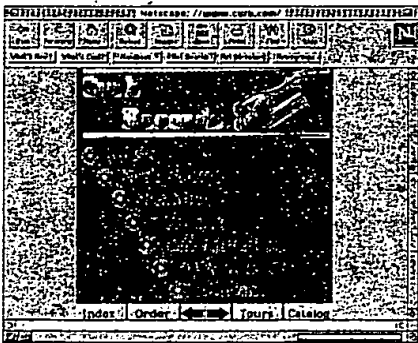
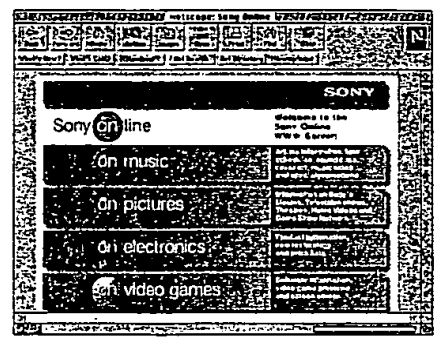
"It's not a mature medium yet," allows BMG's Bourne. "There are still lots of issues that have to be addressed. If a composer is not comfortable with [being on BMG's Web site], we're more than happy to remove that clip — though I've not encountered anyone yet who's taken that stance."

Bourne believes legal solutions satisfactory to everyone will evolve, much as they did a few years ago when sampling was being hotly debated. "We're not going into this assuming that those issues will not visit us," he says, "but I do think we will get to the point where we're all clear on what the legal parameters are."

*Kevin Zimmerman is the U.S. correspondent for Music Business International.*



These are World Wide Web "home pages" of some of the many record labels that have already taken advantage of this new medium.



# BMI

the #1  
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songwriters

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Nashville  
(615) 401-2000

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(310) 659-9109

London  
011-44-171-935-8517

Internet  
[bmi.com](http://bmi.com)

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